

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) :	LIN et al.	Confirmation No.:	7206
Serial No. :	10/516,830	Art Unit :	1771
Filed :	September 7, 2004	Examiner :	J. Steele
For :	NETTING MATERIAL WITH REFLECTIVE OR LUMINESCENT MARKER		

RESPONSE TO RESTRICTION, LACK OF UNITY, REQUIREMENT

Mail Stop – Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Kindly consider the following election in response to the March 29, 2007

Election/Restriction Requirement.

ELECTION

The Examiner, in the Office Action dated January March 29, 2007, required restriction to one of the following groups of claims:

- Group I. Claims 1-54 and 66-68, drawn to a product of reflective netting, and
- Group II. Claims 55-65, drawn to method of using the reflective netting product to wrap a bale of produce.

Applicants respectfully traverse the restriction requirement.

The Examiner urges that Groups I and II “are not so linked as to form a single general inventive concept under PCT Rule 13.1” in that Groups I and II

“lack the same or corresponding special technical features for the following reasons:

The current application claims inventions with the special technical feature of a reflective marker in a netting, a bale wrapped in netting and method of providing a netting with a reflective marker. A reflective marker is not a novel technical feature as referenced in Tsunefuji (US 5,804,275) drawn to a fiber product including reflective thread and reflective implement provided by using fiber product using reflective threads.”

The foundation of the Examiner’s restriction or holding of lack of unity appears to stand or fall on the basis that “[a] reflective marker is not a novel technical feature as referenced in Tsunefuji”. However, PCT Rule 13.2 requires, in part, that:

“[t]he expression ‘special technical features’ shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.”

That is, in order for a lack of unity holding to be proper, the Examiner shall consider contributions of which special technical features make over the prior art in regard to “each of the claimed inventions, considered as a whole”. In the present situation, however, the Examiner concluded a lack of novelty and thus, a lack of unity, from an erroneous consideration of a portion of the claimed inventions, i.e., “[a] reflective marker”, and not from “each of the claimed inventions, as a whole”, as required under PCT Rule 13.2. Thus, Applicant’s respectfully submit that the current restriction or lack of unity requirement is improper.

In addition, Annex B, Unity of Invention, Item (e) of Appendix AI of the Manual of Patent Examining Procedure (MPEP), Administrative Instructions Under the PCT, states, in part, that:

“The method for determining unity of invention under Rule 13.2 shall be construed as permitting, in particular, the inclusion of any one of the following combinations of claims of different categories in the same international application:

- (i) in addition to an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for a use of the said product.”

The Examiner has identified Groups I and II as drawn, respectively, “to a Product of Reflective Netting” and a “Method of Using the Reflective Netting Product to Wrap a Bale of Produce.” On this basis, it is proper for the inventions of Groups I and II to be included in the present

application. As such, it would be proper to include the inventions of Groups I and II in the present application. Applicant's respectfully submit that the current restriction or lack of unity requirement is therefor, improper.

Accordingly, the outstanding restriction or lack of unity requirement should be withdrawn and the identified inventions of Groups I and II, Claims 1-69, should be examined together.

To fulfill Applicants' duty to fully reply to the restriction or lack of unity requirement, **Applicants hereby elect Group I, Claims 1-54 and 66-68.** It is noted that the restriction or lack of unity requirement does not explicitly include independent Claim 69 drawn to a reflective knitted netting, which is consistent with the identified invention of Group I. Thus, Applicant's respectfully submit that the Examiner should include Claim 69 in elected Group I and examine **Claims 1-54 and 66-69.** Applicants reserve the right to file a divisional application based on the non-elected claims.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for the timely consideration of this paper, or credit any overpayment to Deposit Account No. 13-4500, Order No. 1874-4050.

Respectfully submitted,
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